

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Unterio Howard, #247952,)	
)	C/A No. 3:09-1630-MBS
Plaintiff,)	
)	
vs.)	
)	ORDER
Lt. Meredith; Cpl. Jeffery; Invest. Shugart;)	
Sandra Bowie;)	
)	
Defendants.)	
_____)	

Plaintiff Unterior Howard is an inmate in custody of the South Carolina Department of Corrections (SCDC). Plaintiff is housed at the McCormick Correctional Institution in McCormick, South Carolina. On June 22, 2009, Plaintiff, proceeding pro se, filed a complaint pursuant to 42 U.S.C. § 1983 alleging that his constitutional rights have been violated in various respects.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Joseph R. McCrorey for pretrial handling. On January 22, 2010, Defendants Meredith, Jeffrey, Shugart, and Bowie filed a motion for summary judgment. By order filed January 25, 2010, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), the Magistrate Judge advised Plaintiff of the summary judgment procedures and the possible consequences if he failed to respond adequately. Plaintiff filed no response to the motion for summary judgment. On March 5, 2010, the Magistrate Judge issued an order directing Plaintiff to file a response to Defendants' motion within fifteen days from the date of the order. Plaintiff was advised that his failure to respond would subject his case to dismissal with prejudice for failure to prosecute. See Fed. R. Civ. P. 41(b). Plaintiff filed no response. Accordingly, the Magistrate Judge issued a Report and Recommendation on March 26, 2010 in which he recommended that the within

complaint be dismissed for failure to prosecute. Plaintiff filed no objection to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report and Recommendation and incorporates it herein by reference. The within action is dismissed *with prejudice* pursuant to Rule 41(b) for failure to prosecute.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina
April 23, 2010

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.